WHERE ECONOMICS MEETS THE LEGISLATURE

A Final Report of the
Economic Affairs Interim Committee

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Representative Kathleen Galvin-Halcro, Vice Chairman

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Economic Affairs Interim Committee
2001-2002 Interim

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TABLE OF CONTENTS

Executive Summary

This report of the Economic Affairs Interim Committee (EAC) completes the Committee's 20 months of activities during the 2001-2002 Interim. Under 5-5-215, MCA, the Committee has the responsibility to:

(a) review administrative rules within its jurisdiction;
(b) subject to 5-5-217(3), conduct interim studies as assigned;
(c) monitor the operation of assigned executive branch agencies with specific attention to the following:
(i) identification of issues likely to require future legislative attention;
(ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
(iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
(d) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
(e) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work.

These duties and responsibilities led the Committee through a myriad of activities, including meeting and hearing from the director of each of the agencies within the EAC's purview. Administrative Rule matters arose at a majority of the Committee's meetings and the members provided whatever clarification or guidance they could to the stakeholders and administrators. Some progress was made on the issue of employee compensation for travel time, as requested in House Joint Resolution No. 7 (2001). The EAC monitored the reorganization of the Departments of Commerce and Labor and Industry, being particularly interested in building code enforcement, worker training, and work force development. The Committee also remained apprised of developments in the newly created Office of Economic Development within the Governor's Office.

In addition to the statutory duties enumerated in the law, the EAC was also required to review "the implementation and administration of the full cost accounting pilot program and mak[ing] recommendations for implementing a full cost accounting model for all state agencies." In that endeavor, Rep. McKenney and the EAC encouraged the Administration to continue exploring full cost accounting in the state's quasi-entrepreneurial efforts.

The Committee's other major undertaking for the interim revolved around Senate Joint Resolution No. 22 which requested an interim study of various aspects of health care and health insurance. The EAC assigned the SJR 22 study to a subcommittee composed of members of the EAC, the Children, Families, Health and Human Services Interim Committee, and the Legislative Finance Committee.

After receiving, reviewing, discussing, and accepting the final report[1] from the SJR 22 Subcommittee, the EAC formally requested that legislation be drafted to implement the Subcommittee's primary recommendation that follows.

Recommendation 3: SJR 22 Subcommittee: The SJR 22 Subcommittee and the Economic Affairs Interim Committee recommend that the state offer a tax credit to certain low-income individuals and to small businesses for a portion of health insurance premiums paid. For individuals, eligibility should be based on income and the credit amount should be based on the age of the insured. For small business, eligibility should be based on income and on the number of individuals employed by the small business and the credit amount should be based on the average age of the insured. The amount of credits that may be claimed in the aggregate in any fiscal year may not exceed $45 million. The credit should be offered on a trial basis as a pilot program and be terminated after 4 years, unless reauthorized by a future legislature.

During the EAC's discussion of the Subcommittee's report, the full EAC membership also agreed with two of the Subcommittee's other recommendations, which follow.

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[1] The findings, conclusions, and recommendations of the SJR 22 effort are incorporated in a separate report, *Access and Barriers to Health Care*, Report of the SJR 22 Subcommittee, by Dave Bohyer and Gordy Higgins, Montana Legislative Services Division, December 2002.

Recommendation 1: SJR 22 Subcommittee: The SJR 22 Subcommittee and the Economic Affairs Interim Committee recommend: that the Department of Public Health and Human Services (DPHHS) explore the option of participating in a multi-state purchasing pool for prescription drugs on behalf of the citizens that DPHHS serves; that the Administration explore with the Confederated Salish and Kootenai Tribes' their legal authority under the Hellgate Treaty of 1855, the Jay Treaty, and other treaties or federal laws, whether the federal government will allow the Tribes to enter into agreements with Canadian tribes for the importation into Montana of certain prescription drugs; and that the Administration explore whether the purchasing pool for prescription drugs in which the state participates on behalf of state employees can be expanded to include a broader spectrum of Montana's citizens.

Recommendation 2: SJR 22 Subcommittee: The SJR 22 Subcommittee and the Economic Affairs Interim Committee recognize the importance of the CHIP program in providing medical insurance for uninsured children and the value of the federal match in CHIP. At the same time, the Subcommittee and the EAC recognize the fiscal difficulties facing the state and, within the context of those difficulties, urges the Administration to place a high priority on maintaining the size of the CHIP program or expanding it if funding resources could be found, while keeping other programs in the DPHHS that have proven to be valuable to the health of the entire state.

A more detailed account of the EAC's activities is provided in the narrative of this report.

CHAPTER ONE
THE ECONOMIC AFFAIRS INTERIM COMMITTEE

INTRODUCTION

The Economic Affairs Interim Committee (EAC) is one of seven interim committees established in Title 5, chapter 5, MCA. The general duties of the EAC are described in 5-5-215, MCA, which identifies the following tasks: review administrative rules; conduct assigned interim studies; monitor the activities of assigned agencies; identify emerging public policy issues and opportunities to improve current law; review legislation proposed by assigned agencies; compile and analyze information relevant to the Committee's subject jurisdiction; and request legislation that the Committee considers to be advisable.

Under 5-5-223, MCA, the EAC is assigned seven "agencies":

- Department of Agriculture;
- Department of Commerce;
- Department of Labor and Industry;
- Department of Livestock;
- Department of Public Service Regulation;
- Office of the State Auditor and Insurance Commissioner; and
- Office of Economic Development.

The Committee is also assigned any entity that is attached for "administrative purposes only" to any of the seven agencies. The seven agencies assigned to the EAC have separate jurisdictions that cover diverse issues ranging from noxious weeds to consumer protection, from wage and hour laws to mad cow disease, from solid waste disposal to telecommunications, and from disability insurance to business incubators to the investment of public funds. Consequently, the EAC has the opportunity and responsibility for examining a variety of public policy issues.

Finally, as a result of legislation adopted by the 57th Legislature, the Committee was also required to review the implementation of and administration of the full cost accounting pilot program.[2]

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[2] Chapter 489, Laws of Montana, 2001.

COMMITTEE ACTIVITIES

The Committee held a total of seven meetings during the 2001-02 interim, each of which was conducted in Helena. The meeting dates were:

- June 1, 2001
- September 7, 2001
- November 30, 2001
- February 15, 2002
- June 14, 2002
- August 30, 2002
- September 12, 2002

The early meetings were focused on organizational matters for the most part. The Committee also executed its statutorily required "liaison" function by hearing from representatives of each of the seven agencies for which the EAC has "monitoring" responsibilities. Interaction between the Committee and the agencies occurred at virtually every meeting of the Committee.

At six of the Committee's seven meetings, at least one administrative rule matter was either formally on the agenda or came up as a result of committee or citizen interest. In hearing administrative rules issues, the Committee fulfilled its dual roles of "sounding board" and constituent representative. (More details on these activities is included in Chapter 2.)

Economic development was also regular fare at Committee meetings. Representatives of the Governor's Office of Economic Development (OED) or the Department of Commerce typically reported on recent, ongoing, and future economic development activities. With the Governor's OED having just been established as a result of legislation in the 2001 Session,[3] a significant portion of the OED activities reported to the Committee were merely initial efforts to establish the Office, its staff, and a solid work plan. The results of the work of the OED for the past 18 months will be unveiled in December 2002, as part of the Governor's economic development plans for the 2004-05 biennium and beyond.

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[3] Senate Bill No. 455 (2001), Chapter 483, Laws of Montana, 2001.

Through a subcommittee created to conduct a study of the costs of health care and health insurance, the Committee developed, examined, and disseminated a great deal of information on health insurance and health care, particularly in Montana. The work of the SJR 22 Subcommittee on Health Care and Health Insurance is detailed in a separate report available from the Legislative Services Division, *Access and Barriers to Health Care*.

Finally, the Committee fulfilled its responsibility to review potential legislation proposed by the seven agencies. Beginning in June 2002, the EAC received and reviewed proposed legislation from the Department of Labor and Industry, the Montana State Fund, the Department of Agriculture, the Public Service Commission, and the State Auditor and Insurance Commissioner. Ultimately, the Committee requested, on behalf of the respective agencies, that the Legislative Services Division staff prepare legislation to implement the proposals made by the agencies.[4]

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[4] See *Minutes*, Economic Affairs Interim Committee, June 14, 2002 and August 30, 2002, Montana Legislative Services Division.

Chapter Two
Topical Issues Before the Committee in 2001-02

ECONOMIC DEVELOPMENT

Even before the 57th Legislature convened in January 2001, the topic of "economic development" was a major policy issue. To address the issue, the Governor proposed to reorganize the Departments of Commerce (DOC) and Labor and Industry (DOLI), as well as create the Office of Economic Development within the Office of the Governor. Acceding to the Governor's objectives, the Legislature adopted Senate Bill No. 445 which was intended to assist in efforts to expand and improve the state's economy.[5]

Over the course of the interim, the Committee received several briefings from the staffs of the Office of Economic Development and the Department of Commerce regarding implementation of the recently adopted legislation. The EAC also received information from the staffs of the state Department of Agriculture and state Board of Investments on their respective roles in economic development.

Unfortunately, the tragedy of September 11, 2001, occurred and those events alone affected the economies of Montana, the United States, and countries around the world. Even so, Montana has bucked the national employment trend of the past 2 years by continuing to increase the number of jobs in the state. And while job creation is a positive factor, Montana ranks last among the 50 states in per capita income from wages and salaries and near the bottom in per capita personal income.

The clear message from the economic development ambassadors was that increasing the number of jobs in Montana, particularly higher-paying jobs, and raising the incomes of Montanans were the overarching goals. The state's efforts to recruit new business, retain and expand existing business, develop and apply new technology, and add value to the state's products and services were all focused on the primary goals.

[5] Chapter 483, Laws of Montana, 2001.

FEDERAL REED ACT FUNDS[6]

The Committee was briefed by Wendy Keating, Commissioner, Department of Labor and Industry (DOLI), on a considerable sum of federal unemployment insurance funds that were to be transferred to Montana and other states. In labor and employment parlance, these funds are referred to as "Reed Act funds". The essence of Commissioner Keating's remarks follow.

- Employers pay both a state and a federal unemployment tax.
- The state tax goes to pay benefits for unemployment insurance claimants. The federal tax goes into the Federal Unemployment Tax Account (FUTA) fund and is allocated annually to the states.
- The federal tax is used solely for the administration of the unemployment insurance program, the Job Service Labor Exchange Program, and for labor market information activities. The federal government had, as of Spring 2002, a large surplus in the FUTA fund.
- As the surplus has built, there has been much pressure from states to release additional FUTA funds because the states have been underfunded in the administration of those programs.
- President Bush's economic stimulus package addressed the states' problem by allocating a 1-time only amount to each state from the FUTA surplus.
- Montana has received $18.5 million, but it can be used only for the administration of unemployment insurance, Labor Exchange, and labor market information. However, a state can put a portion of the allocation into its unemployment insurance trust funds to beef up the state's unemployment benefits.
- Montana's unemployment trust fund is very healthy and solvent, and it is growing. The Department expects the tax schedule for employers to remain at the lowest of the 10 possible schedules.
- Montana does not need to put money into the trust fund at this point. However there is a huge funding deficit and crisis in the administration of the unemployment insurance program. The

[6] These funds come from Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (TEUCA), which is Title II of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147.

Department will spend the newly acquired federal dollars to bring Montana's unemployment insurance administration up to a level of adequacy.

- There is no time limit on the expenditure of the Reed Act funds, and the Department is looking at legal ways to use the money to offset general fund expenditures.
- The Department will also use part of the funds to upgrade the available Internet interface so that people can file for benefit claims online. A part of the funds will also be used for an additional analyst position in the Research and Analysis Bureau.[7]

The DOLI will have proposed uses for these funds in the Executive Budget proposal. Potentially of particular interest to legislators and others will be how the Reed Act funds are used to replace funding that will have previously come from the state general fund and, simultaneously, meet the requirements of the Reed Act.[8]

ADMINISTRATIVE RULE REVIEW

Under the Committee's statutory duty to review rules proposed by the agencies assigned to it, the EAC examined several matters that generated considerable interest among those whom the rules affected most directly.

Senate Bill No. 242: "The Donut Bill"

The issue of building code enforcement by a municipality outside the corporate limits of the municipality has been controversial for some time. Senate Bill No. 242 (2001) was intended to clarify statutory provisions relating to the authority of a municipality to enforce building codes within a 4 1/2 mile

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[7] Keating's comments were reported in *Minutes*, Economic Affairs Interim Committee, June 14, 2002, Montana Legislative Services Division, and have been minimally revised here primarily to provide currency.

[8] The *Legislative Budget Analysis 2005 Biennium*, to be published in late December 2002 or early January 2003 may have additional information on the proposed use of Reed Act funds.

extrajurisdictional boundary, i.e., the 4 1/2 mile "donut" that surrounds a municipality's corporate boundary or city limits.[9] As fate had it, SB 242 generated its own controversy through the legislative process and penultimately made its way through a couple of free conference committees before it was finally approved by both houses. In its final version, SB 242 was internally inconsistent and contradictory. The inconsistencies and contradictions in SB 242 were eventually confronted by the Building Codes Bureau, DOLI, whose staff was tasked with implementing the bill through administrative rules.

The Committee was initially briefed and then kept apprised of developments and implementation issues associated with SB 242. After hearing from DOLI staff that implementing SB 242 was nigh on impossible due to the internal contradictions, other parties also informed the EAC of other, primarily parochial, concerns and problems. For good or ill, the Committee was unable to remedy the problems radiating from SB 242.

Ultimately, the Yellowstone County Attorney requested an opinion from the Attorney General on the matter. According to the Attorney General's Opinion:

> 1. The owners of real property who may vote in the elections contemplated by SB 242 are those owners specifically listed within the definition of Mont. Code Ann. § 50-60-101(14) whose interests appear in the real property records in the office of the county clerk and recorder 30 days before the election.
>
> 2. Municipal jurisdictional areas existing under Mont. Code Ann. § 50-60-101(11) prior to the effective date of SB 242 lose jurisdiction to enforce municipal building code provisions as of the effective date of the bill, but such jurisdiction may be revived if it is approved by the voters in the election required by section 8 of SB 242 prior to December 31, 2001.[10]

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[9] Chapter 546, Laws of Montana, 2001.

[10] *Opinions of the Attorney General, 49-011*, as provided on the Attorney General's website, http://www.doj.state.mt.us/ago/. Interestingly, the Attorney General had previously issued a different opinion on the matter, then withdrew the first opinion, just days before the second opinion was crafted, signed, and issued. Understandably, the website does not provide a copy of the opinion that was withdrawn.

While the Attorney General was drafting the Opinion and while several aggrieved individuals and municipalities were readying a lawsuit, the DOLI continued to refine its proposed rules and to receive comments.

Subsequent to the AG Opinion, a lawsuit was filed by three individuals and six municipalities, in which the plaintiffs requested that the Supreme Court assume original jurisdiction and issue a temporary injunction precluding the implementation of SB 242. In relatively short order, the Supreme Court did assume jurisdiction and granted the temporary injunction, thus:

> IT IS HEREBY ORDERED that the County Defendants are and shall be temporarily enjoined from passing any resolution, making any notice or conducting any election as otherwise required by Section 8 of SB 242, or from otherwise enforcing any provision of SB 242.
>
> IT IS FURTHER ORDERED that the Department of Labor and Industry is and shall be temporarily enjoined from asserting state building code jurisdiction within the "donut areas" of the Municipal Defendants.
>
> IT IS FURTHER ORDERED that the portion of the Attorney General Opinion No. 49-011 which opines that the Municipal Plaintiffs have lost municipal code jurisdiction over their respective "donut areas" as of May 1,2001, is stayed.[11]

Plaintiffs and Defendants in the suit have each submitted briefs to the Court, as have *amicus curiae*. The Court's original temporary injunction has passed its 1-year anniversary, on November 20, 2001. Unless a decision is rendered quite soon, it may be that the 58th Legislature will readdress enforcement of building codes and render as moot the issues in the lawsuit.

The Economic Affairs Committee, while interested in the issue, the practical effects of enforcing (or not) the extrajurisdictional imposition of building codes, and the legal arguments of the "donut" bill, did not take a position on the merits of the arguments and

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[11] Montana Supreme Court, Order 01-815, November 20, 2001.

make no recommendation.

Workers' Comp Reimbursement for Certain Medical Practitioners

The rates of reimbursement that the state's workers' compensation insurers are required to pay for the services of certain medical practitioners are set in administrative rules promulgated by the DOLI. For some years, apparently, these medical practitioners--who have different licensing requirements, but perform some of the same services--have received different reimbursement rates for several, virtually identical services. Understandably, that has caused problems for those practitioners who receive the lower reimbursement.

To address the issue, the DOLI proposed to revise the medical fee schedule that created the disparity. Under the initial proposal, the rates at issue paid to chiropractors would be increased. However, the proposed increase for the chiropractors (DC) would come at the direct expense of the occupational therapists (OT) and physical therapists (PT), whose reimbursement rates were to be reduced under the rules.[12] This proposed solution was also viewed as problematic.

In response, the Committee suggested that the stakeholders engage in dialog and negotiation for the purpose of finding a mutually acceptable solution. Perhaps surprisingly, the DCs, OTs, PTs, and workers' compensation insurance representatives of the Montana State Fund and from Plans 1 and 2, collaborated on a solution: revise the service codes so DCs, OTs, and PTs use the same codes are reimbursed at the same rates.

To that end, the DOLI published notice of the proposed rule revision in May 2002[13] and adopted the revised rules in June

[12] The off-setting raising/lowering of fees situation resulted from the DOLI's interpretation of 39-71-704, MCA.

[13] *Montana Administrative Register*, MAR Notice No. 24-29-161, Issue # 9, pp. 1403-1419, May 16, 2002.

2002.[14]

Engineers and Sprinkler Installers

Not unlike the previous two rules issues discussed above, this matter involved a controversy between two parties: licenced engineers and "sprinkler installers", more specifically, individuals who install fire protection sprinkler systems. The nub of the issue, for the engineers at least, was that there were and are individuals who install various sprinkler systems who are not licensed engineers. The licensed engineers, through the Board of Professional Engineers and Professional Land Surveyors (BOE) had contemplated interpreting the "scope of practice" of licensed engineers to include the design and installation of the sprinkler systems at issue.[15]

In response, several sprinkler installers contended that their services were not "engineering", but merely installing a system of sprinklers. Some noted that the engineers' statutory "scope of practice" had not been previously interpreted, for possibly 10 years or longer, to include sprinkler installation. Moreover, they proposed that if the BOE thought that engineers' scope of practice should include sprinkler installation, the most appropriate process to follow would be legislation. At the very least, the BOE should formally propose an administrative rule under the Montana Administrative Procedure Act.

Subsequent to the Committee's briefing on the matter and further consideration by the BOE, the BOE proposed rules related to fire protection system designs, more specifically shop drawings

[14] *Montana Administrative Register*, Rule Adoption, Issue # 12, pp. 1758-1765, June 27, 2002.

[15] The scope of practice for engineers is described in Title 37, chapter 67, MCA.

for fire sprinklers.[16] The proposed rules were ultimately adopted, and became effective November 15, 2002.[17] A representative of the BOE is unaware of any proposed legislation for the 2003 Session that would alter the statutory description of a licensed engineer's "scope of practice" to include sprinkler installation.[18]

APRNs, CRNAs, and Anesthesiologists

A sign of the times in the delivery of health care is the growth in the number of Advanced Practice Registered Nurses (APRN) and the proliferation of APRN practices, particularly in rural states and rural communities. In some regions of Montana, an APRN may be the only medically trained person within scores of miles or hours of driving time.

An issue arose as an administrative rule was proposed by the Board of Nursing (BON) that was intended, ostensibly, to clarify a "level of nursing care" matter -- at least according to the BON, the APRNs, and Certified Registered Nurse Anesthetists (CRNA). Innocuous at first blush, the revision to the rule would have clarified that historic and traditional CRNA services provided as part of an operation were "independent" practice.[19]

Voicing concern over patient care, however, the state's anesthesiologists contended that historic and traditional CRNA practice included supervision by the person performing the operation and, therefore, the practice was not "independent".

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[16] *Montana Administrative Register*, MAR Notice No. 24-183-26, Issue # 14, pp. 1968-1971, July 24 2002.

[17] *Montana Administrative Register*, Rule Adoption, Issue # ___, pp. _________, (date). The Rule has been adopted, but citation is unavailable on the Secretary of State's website.

[18] Correspondence with Todd Boucher, Program Administrator, Board of Professional Engineers and Professional Land Surveyors, Helena, Montana, Dec. 2002.

[19] *Minutes*, Economic Affairs Interim Committee, August 30, 2002; in testimony of: Ms. Kim Powell, Chair, Board of Nursing Subcommittee on APRN Rule Review; Jim Ahrens, Montana Hospital Association; Margaret Morgan, Montana Association of Nurse Anesthetists; Ms Sami Butler, Montana Nurses Association; Senator Eve Franklin.

Moreover, the anesthesiologists contended that the BON, through the proposed rule revision, was attempting to expand the CRNAs "scope of practice". They also stated that expanding the scope of practice was a matter that was within the purview of the legislature only, not the BON.[20]

After the Committee heard from representatives of the stakeholders at two successive meetings, the EAC members advised the involved parties to work toward a mutual agreement. After all, the EAC counseled, should the matter be resolved through legislation, it was possible that neither the CRNAs nor the anesthesiologists would be satisfied.

As of the Committee's final meeting, on September 12, 2002, there was no report of a resolution to the stakeholders' differences.

<u>Leave Policy Changes for Montana State Fund Employees</u>

Under the provision of Senate Bill No. 145 (Ch. 314, Laws of Montana, 2001), the Montana State Fund was authorized to develop one or more alternative personal leave plans for some or all of its employees. The authority included the ability of the State Fund to develop an alternative personal leave plan for a particular class of employees or work unit.

The State Fund reported to the Committee that the State Fund had adopted an alternative leave plan for some State Fund employees.[21] Representatives of the State Fund submitted a written description of the State Fund's leave plan and said that, in general, the new plan substituted 6 days of "personal leave" for 6 days of "sick leave".

<u>Compensability of Employee Travel Time</u>

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[20] *Minutes*, Economic Affairs Interim Committee, August 30, 2002; in testimony of: Susan Good, Montana Society of Anesthesiologists; Mona Jamison, Attorney for Anesthesiologists; Dr. Michael Sterbis, MD, (Anesthesiologist).

[21] See *Minutes*, Economic Affairs Interim Committee, September 12, 2002, testimony of Joanne Shydian, Personnel Officer, Montana State Fund.

Federal law and regulations, state law and regulations, and court decisions are sufficiently overlapping, contradictory, and confusing that the 57th Legislature encouraged a dialog among the entities responsible for administering the law. In short, House Joint Resolution No. 7 (2001) requested the DOLI to review the law and administrative rules related to the compensability of employee travel time. More specifically, HJR 7 stated:

> That the Montana Department of Labor and Industry is strongly urged to:
>
> (1) review state laws and administrative rules to simplify and clarify laws related to the compensability of employee travel time;
> (2) meet jointly with representatives of the United States Department of Labor and other interested employer and employee representatives to discuss streamlining and reducing the complexity of federal and state laws regarding the compensability of employee travel time; and
> (3) report to the [Economic Affairs] Interim Committee on its joint meetings and progress to clarify and simplify the myriad of cumbersome and confusing laws and regulations regarding an employer's responsibility to pay employee travel time.

The travel time rules were not just confusing, but resulted in either overpayment or underpayment of wages, which inadvertently subjected employers to having a claim filed against them (litigation) or DOLI hitting them with fines and penalties because the employer misapplied the law.

Representatives of the Montana DOLI and the U.S. Department of Labor met several times during the 2001-02 interim to discuss the issue of compensating employees for travel time. The result of some meetings with the U.S. Department of Labor representatives and others was that the DOLI, Labor Standards Bureau staff revised the nettlesome rules and agreed to create a "help line" concerning travel time issues on the DOLI website in a way that it would make it easier for employers to figure out when they should pay wages for employee travel time.[22] The DOLI also proposed

[22] The Department's website, http://erd.dli.state.mt.us/, through the Labor Standards link, now provides information on the determination of pay status while traveling.

conducting educational seminars on travel time for employers.[23]

Full Cost Accounting Pilot Program

During the 56th Legislative Session (1999) and prior to the 57th Legislature convening in January 2001, there was concern among legislators and their constituents that the State of Montana was engaging in entrepreneurial activities that were in direct competition with certain private businesses. As a result, House Bill No. 73 was passed and approved.[24] As adopted, HB 73 stated:

> (1) The legislature finds that acknowledging the complete costs of agency programs and services enables policymakers to develop more informed decisions, identify opportunities for streamlining programs and services, facilitate cost-saving efforts, and better plan for the future.
> (2) The legislature further finds that applying a full cost accounting model may result in the following benefits:
> (a) agency rates and fees for goods and services that are set correctly and fairly;
> (b) agency budget requests that are more clear and defensible; and
> (c) programs or services that may be operated more effectively or offered for less cost.
> (3) The legislature further finds that full cost accounting serves different goals and audiences than traditional government accounting reports.
> (4) Therefore, the legislature declares that there is a compelling public need to adopt a full cost accounting model to isolate state agency program costs.

In subsequent language, HB 79 laid out a series of definitions, requirements, and time lines for the executive branch to follow in executing a "full cost accounting pilot program". One of the requirements was that the administration report back to the Committee on the findings and conclusions of the pilot program. On September 12, 2002, staff of the Governor's Office of Budget and Program Planning coordinated reports from the nine programs

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[23] Correspondence with Ms. Eddye McClure, Staff Attorney for the EAC, December 2002.

[24] Chapter 489, Laws of Montana, 2001.

that were specifically identified in HB 73.[25]

The short of the story is that the pilot program discovered a few instances in which the state program was, in fact, undercutting the prices charged in the private sector. However, when all was said and done, the administration, in the report, concluded that "there are no recommendations from the Governor's Office to privatize any of these nine service areas at this time".[26]

The Committee members showed considerable interest in the reports on the several programs. Committee Chairman, Senator Dale Mahlum, and other members posed numerous questions to programs representatives. At the conclusion of the discussion, EAC member Rep. Joe McKenney stated that he liked the full-cost accounting method concept and that the administration should be encouraged to expand it into other areas of state government.[27]

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[25] A copy of the report, *Full Cost Accounting Pilot Program*, Compiled by the Office of Budget and Program Planning, September 9, 2002, is included at Appendix A. Staff comments are in *Minutes*, Economic Affairs Interim Committee, September 12, 2002, Montana Legislative Services Division.

[26] Ibid., p. 6.

[27] *Minutes*, Economic Affairs Interim Committee, September 12, 2002, Montana Legislative Services Division.

CHAPTER THREE
ACCESS AND BARRIERS TO HEALTH CARE

ISSUE BACKGROUND

The cost of health care in Montana, like the cost of health care virtually everywhere else in the United States, has been increasing faster than the rate of general inflation for a number of years. In recent years, the annual increases have been in the double-digit percentages. In a state like Montana, where average family incomes are notoriously low, the base cost of health care plus the added rates of growth have made the total cost of health care terribly burdensome in many cases and economically unfeasible in many others.

Coupled with the rising costs of health care is a trend of increasing cost of health insurance. This situation, again set against low incomes, has resulted in a relatively high proportion of Montana's population living without health insurance.

Set against this backdrop, the 57th Legislature adopted Senate Joint Resolution No. 22. The underpinnings of SJR 22 are summarized in its preamble:

> WHEREAS, rising health care costs are detrimental to stable lifestyles and the well-being of families; and
> WHEREAS, health care costs and health insurance rates are increasing above the rate of inflation; and
> WHEREAS, rising health insurance costs have a significant impact on the overall personnel and salary budgets of governmental agencies; and
> WHEREAS, uncompensated care is a burden on all taxpayers, insurance carriers, and insurance consumers; and
> WHEREAS, prescription drug costs may be driven by advertising that extols the virtues of the newest expensive drug; and
> WHEREAS, because of the increased cost, a large percentage of employers in Montana no longer offer insurance benefits to their employees and many employees who have insurance have dropped dependents from coverage; and
> WHEREAS, all Montanans should have the opportunity to have health insurance coverage, yet 20% are not covered; and
> WHEREAS, mandating coverage for certain health care services and providers adds to the cost of insurance; and

WHEREAS, the 58th Legislature will likely have numerous health care and health insurance issues to address....

The rationale for the study request was followed by the general direction that the Legislature wished the study to take. As stated in the body of SJR 22, the study was intended to examine:

1. purchasing pools for individual and small group insurance;
2. provider reimbursement rates and cost shifting of health care costs;
3. access to affordable prescription drugs;
4. strategies to decrease the number of uninsured Montanans;
5. factors causing health insurance rates to increase above the rate of inflation;
6. the feasibility of recreating the Health Care Advisory Council; and
7. any other issues that the committee or the staff deem appropriate and relevant to the problem.

Having a considerable amount of other statutorily assigned duties, the EAC discussed the potential merits of creating a subcommittee to focus on the SJR 22 study.

SJR 22 SUBCOMMITTEE

At the EAC's first meeting, the decision was made to create a subcommittee to conduct the study requested in SJR 22. EAC chairman, Sen. Dale Mahlum, appointed Rep. Joe McKenney as chairman of the subcommittee and Sen. Jon Ellingson as vice chairman. The decision was also made to solicit members of the Children, Families, Health and Human Services Interim Committee and the Legislative Finance Committee to participate on the subcommittee. As finally constituted, the SJR 22 Subcommittee on Health Care and Health Insurance was composed of 14 members, as follows:

Representative Joe McKenney (R-Great Falls) Chairman	Senator Jon Ellingson (D-Missoula) Vice Chairman
Rep. Kathleen Galvin-Halcro (D-Great Falls)	Sen. Dorothy Berry** (R-Hamilton)
Rep. Bob Lawson (R-Whitefish)	Sen. Royal Johnson (R-Billings)
Rep. Michelle Lee (D-Livingston)	Sen. Jerry O'Neil (R-Columbia Falls)
Rep. Gary Matthews (D-Miles City)	Sen. Linda Nelson (D-Medicine Lake)
Rep. John Sinrud* (R-Bozeman)	Sen. Glenn Roush (D-Cut Bank)
Rep. Trudi Schmidt (D-Great Falls)	
Rep. Bill Thomas (R-Hobson)	

* Replaced Rep. Bill Price

** Replaced Sen. Dale Berry

Conceivably, any of the primary topics of study listed in SJR 22 could consume the time, effort, and resources of more than one committee. Consequently, the Subcommittee narrowed its attention to focus on two primary goals:

1. enhanced access to affordable health insurance; and
2. delivery of cost-effective, quality health care.

SJR 22 SUBCOMMITTEE ACTIVITIES

The SJR 22 Subcommittee met a total of nine times during the 2001-02 interim, and was assisted in its work through the efforts of a Tax Credit Working Group. The Subcommittee's meetings were conducted in Helena on the following dates:

- August 30, 2001;
- October 29, 2001;
- November 29, 2001;
- February 14, 2002;
- April 4, 2002;
- June 12, 2002;
- July 18, 2002;
- August 30, 2002; and
- September 12, 2002.

As stated by Rep. McKenney in presenting the Subcommittee's recommendations to the full EAC, the Subcommittee looked at:

> ... tax policy changes, medical savings accounts, the subsidized buy-in to the state employee purchasing pool, the full-cost buy-in to the public health insurance plan, the CHIP employer buy-in, the expansion of CHIP to cover parents, single-payer systems; purchasing pools for health insurance, the MCHA and its needs, hospital rate review regulations, certificate of need, prescription drug costs, assistance for senior citizens and purchasing pools, the West Virginia multi-state purchasing pool, the reestablishment of the former Health Care Authority, the need for a health care inventory and ombudsman. and a defined contribution plan for health benefits.[28]

While the scope of topics examined by the Subcommittee was extensive, the members focused on three areas: purchasing pools, the Childrens Health Insurance Program, and tax credit for health insurance premium. A full presentation of the Subcommittee's work is provided in the Subcommittee's final report, *Access and Barriers to Health Care* and, therefore, is not provided here. However, a quick overview of the three focal issues and the Subcommittee's recommendations are worth recapitulating.

PURCHASING POOLS

To illustrate the concept of a purchasing pool for commodities, the State of Montana has had for many years a "central stores" program that purchases a variety of office supplies in bulk. The central store then resells the items to state agencies at a price that is only marginally marked up from the wholesale cost of the items. The low mark-up means that an individual agency is able to purchase the items from the central store at a considerable discount to the going rate that the agency would otherwise pay at a retail supplier. Thus, the bulk purchasing power of central stores

[28] *Minutes*, Economic Affairs Interim Committee, September 12, 2002, Montana Legislative Services Division.

benefits the state agencies directly and, indirectly, the states' taxpayers.

The Subcommittee explored the pooling concept in two related but very different areas of health insurance: (1) by pooling covered employees through a consortium of employers; and (2) by examining the prescription drug purchasing pooling concept, as implemented in West Virginia and several other states.[29]

The pooling of small business employers for the purpose of lowering the cost for health insurance has been attempted in Montana, but has had little success. For numerous reasons, some of them unknown, a sufficient "pool" of employers did not form--and perhaps could not be formed. Also for numerous reasons, a sufficient number of interested insurance providers never materialized. It is questionable whether or not pooling small businesses in an attempt to lower the cost of health insurance is practical in Montana, at least not without significant changes in public policy.[30]

A prescription drug purchasing pool has also been tried in Montana, particularly within the public sector. For example, the prescription drug benefit within the health benefits plan for state employees is contracted to a "pharmacy benefits manager" or PBM, through a competitive bidding process. The pool of over ten thousand state employees has been sufficient to attract the interest of pharmaceutical providers and, as a result, the cost of prescription drugs to state employees is typically less than the cost to an individual or even a member of a smaller pool.

The current direct bulk drug-purchasing model available in Montana is through the Minnesota Multi-state Contracting Alliance

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[29] The subtopics of "pools" that the Subcommittee examined included: employer buy-in programs; full cost buy-ins; prescription drug benefit plan pooling in other states; multi-state pooling arrangements in 2001; seniors eligible for Medicaid price discounts; medicaid waivers; the state, DPHHS, and other purchasing pool options; medical savings accounts; subsidized buy-in to the state employee purchasing pool; full-cost buy-in to the public health insurance; CHIP employer buy-in; the MCHA and its needs; assistance for senior citizens and; purchasing pools in the matter of prescription drugs

[30] See *Access and Barriers to Health Care*, the Final Report of the SJR 22 Subcommittee of the Economic Affairs Interim Committee, December 2002, Montana Legislative Services, particularly pp. 6-10.

for Pharmacy (MMCAP). MMCAP is a group of state agencies and nonfederal governmental units that are eligible to obtain pharmaceuticals and allied supplies and services using contracts established with pharmaceutical manufacturers and other vendors. MMCAP is administered by the Minnesota Department of Administration, Materials Management Division. Funding is provided through administrative fees collected from contracted manufacturers and is used solely to support this program. There is no membership fee to participate in MMCAP. This program has been in existence since 1985 and has grown to over 2,939 participating facilities in 40 states. The annual pharmaceutical sales volume is $600 million. MMCAP has moved into national account status with all of the major and generic pharmaceutical manufacturers.[31]

As a member of MMCAP, Montana can utilize its services at state facilities but has contracted with McKesson Medication Management LLC to deliver pharmaceuticals and pharmacy services to the Department of Corrections, Montana State Hospital, Montana Developmental Center, and the Montana Chemical Dependency Center. Although the State of Montana has a contract with MMCAP for providing pharmaceuticals, the state has approved McKesson's use of its own drug contracts as long as it can prove it provides them at less cost to the State than is provided through MMCAP purchases.

Because the state's public sector purchasing pools have had some success and for other reasons, the SJR 22 Subcommittee and the full EAC make the following recommendation:

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[31] The statements here are from the November 18 memo from Maggie Bullock, but originated from the website, *MMCAP Home Page.*, Minnesota Multi-state Contracting Alliance for Pharmacy. 13 Nov. 2002 . <http://www.mmd.admin.state.mn.us/mmcap.htm>

RECOMMENDATION 1

The SJR 22 Subcommittee recommends: that the Department of Public Health and Human Services (DPHHS) explore the option of participating in a multi-state purchasing pool for prescription drugs on behalf of the citizens that DPHHS serves; that the Administration explore with the Confederated Salish and Kootenai Tribes' their legal authority under the Hellgate Treaty of 1855, the Jay Treaty, and other treaties or federal laws, whether the federal government will allow the Tribes to enter into agreements with Canadian tribes for the importation into Montana of certain prescription drugs; and that the Administration explore whether the purchasing pool for prescription drugs in which the state participates on behalf of state employees can be expanded to include a broader spectrum of Montana's citizens.

CHILDRENS HEALTH INSURANCE PROGRAM

The Children's Health Insurance Program (CHIP) program is an insurance program for children in families with incomes less than 150 percent of the federal poverty level ($26,475 for a family of 4 in 2001). The state contracts with private insurance carriers to provide and pay for services. Families with incomes above 100 percent of the federal poverty level pay an annual co-payment of $215. CHIP is funded from a fixed federal grant. States have three years from the time it is received to spend the grant allotment. Federal funds require a state match based on a percentage of the match rate for Medicaid benefits. The Montana match requirement for federal CHIP funding is 19.09 percent in fiscal 2002, and 19.24 percent in fiscal 2003. Administrative costs are limited to 10 percent of the grant amount.[32]

In Montana, the CHIP program provides health insurance to approximately 9,300 children who are ineligible for other publicly funded health care and whose parents have not purchased health

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[32] *Legislative Fiscal Report for the 2003 Biennium* , Legislative Fiscal Division, June 2001.

insurance for other, typically economic, reasons.

The SJR 22 Subcommittee focused on the CHIP program because of its success in providing health insurance for children in low-income families, the highly beneficial federal matching ration of approximately 4:1, and the widespread support for the program.

First and foremost, the SJR Subcommittee recognized the CHIP program as a highly visible, successful program. After learning of several types of "buy-in" programs, the Subcommittee became interested in the idea of expanding the eligibility criteria, primarily the income threshold, to make additional children eligible. Expanding the coverage is possible currently, but doing so would require additional general fund appropriations.

Other intriguing prospects included the possibility of expanding the eligibility criteria to allow participation by the parents of eligible children, or senior citizens who would already be eligible under the income threshold but are excluded only because of their age. (The program is limited to children aged 18 or younger.)

In the end, the state's current fiscal situation became a very influential concern. As a result, the SJR 22 Subcommittee and the full EAC make the following recommendation.

RECOMMENDATION 2

The SJR 22 Subcommittee recognizes the importance of the CHIP program in providing medical insurance for uninsured children and the value of the federal match in CHIP. At the same time, the Subcommittee recognizes the fiscal difficulties facing the state and, within the context of those difficulties, urges the Administration to place a high priority on maintaining the size of the CHIP program or expanding it if funding resources could be found, while keeping other programs in the DPHHS that have proven to be valuable to the health of the entire state.

TAX CREDITS FOR INSURANCE PREMIUMS

The cost of health insurance has been increasing in recent years, to the point that it has become prohibitively expensive for a variety of individuals and businesses. In an effort to explore options for reducing the cost of health insurance, the SJR 22 Subcommittee hit upon the idea of tax credits for insurance premiums. Under the credit concept, certain individuals and businesses would be eligible for a tax credit to offset a portion of the cost of health insurance.

Through a group designated by Subcommittee Chairman Rep. Joe McKenney, the Tax Credit Working Group explored the complexities of establishing the tax credits. The exploration began by identifying the factors affecting the tax credits, and proceeded from there by setting the parameters for the credits. After many forays into estimating the potential cost of the credits, the Subcommittee narrowed the scope of eligibility for the credits to low-income individuals and "small businesses" as measured by the number of employees and limited by a business's income.

A more complete explanation of the Subcommittee's activities is provided in *Access and Barriers to Health Care.*[33] In short, the recommendation of the Subcommittee and the full EAC follows.

RECOMMENDATION 3

The SJR 22 Subcommittee recommends that the state offer a tax credit to certain low-income individuals and to small businesses for a portion of health insurance premiums paid. For individuals, eligibility should be based on income and the credit amount should be based on the age of the insured. For small business, eligibility should be based on income and on the number of individuals employed by the small business and the credit amount should be based on the average age of the insured. The amount of credits that may be claimed in the aggregate in any fiscal year may not exceed $45 million. The credit should be offered on a trial basis as a pilot program and be terminated after 4 years, unless reauthorized by a future legislature.

[33] *Access and Barriers to Health Care*, a Final Report of the SJR 22 Subcommittee on Health Care and Health Insurance, December 2002, Montana Legislative Services Division.

Summary and Conclusion

The 2001-2002 interim was an active one for the Economic Affairs Interim Committee. Having conducted seven full EAC meetings, eight meetings of the SJR 22 Subcommittee on Health Care and Health Insurance, and a handful of meetings by the HJR 22 Tax Credit Working Group, there was plenty of work to go around.

The Committee's most visible and perhaps most significant work was accomplished through the SJR 22 Subcommittee on Health Care and Health Insurance. However, the collaborative agreements reached by the various stakeholders in the several administrative rule disputes may also be attributable, in part, to the counsel and admonitions of the Committee. What is not in doubt is that the spectrum of "economic affairs" that is within the Committee's purview leaves plenty of work to be done in future interims.

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APPENDIX A

Full Cost Accounting Program
Report to the Economic Affairs Interim Committee

September 2002

FULL COST ACCOUNTING PILOT PROGRAM

House Bill 73

Chapter Number 489

Montana Session Laws of 2001

REPORT TO THE

Economic Affairs Interim Committee
Legislative Finance Committee
Legislative Auditor

As Prepared by Each Agency
And Compiled by the Office of Budget and Program Planning

September 9, 2002

FULL COST ACCOUNTING PILOT PROGRAM REPORT

Introduction

Chapter 489, Laws of 2001, required the following divisions, bureaus, units or programs to pilot a full cost accounting model for FY 2002:

Agency	Code	Functional Service Area
FWP	5201	Capitol Complex Grounds Maintenance
DEQ	5301	Plan & Specification Review Unit in Public Water Supply
MDOT	5401	State Motor Pool Unit
DNRC	5706	State Seedling Nursery in the Forestry Division
DofA	6101	Central Stores in General Services Division
Dof Ag	6201	State Hail Insurance Program
Dof Ag	6201	State Grain Laboratory Bureau
DoCom	6501	Montana Promotions Marketing Unit
PHHS	6901	Chemical Dependency Bureau in the AMD Division

As specified in the law, each agency participating in the full cost accounting pilot was to prepare a report containing:

(a) The true cost of providing the service
(b) Issues associated with implementing and administering a full cost accounting model; and
(c) Any recommendation to privatize functions within the departments according to the provisions of Title 2, chapter 8, part 3.

In order to reduce the redundancy that would have occurred in nine different reports and to economize across-the-board in the Executive Branch among the eight affected agencies, the Office of Budget and Program Planning agreed to compile the reports from the functional service areas. Therefore, this single report is being provided to the three entities, as required by the law. Questions about the costs and issues for any service area will need to be directed to the agency staff responsible for the accounting and management of that particular area.

Process

The eight agencies that have functional service areas in the pilot program met and determined to use a Montana Comprehensive Annual Financial Report template as the spreadsheet to enable compilation of their information in the same format. The new HB 73 definition of "full cost accounting" ["a systematic approach for identifying, aggregating, and reporting the actual costs of agency programs or services by accounting for all monetary resources used or committed by agency programs or services"] was discussed. Direct costs must include wages, benefits and pensions, supplies and materials, travel, printing, rent and utilities, interest on capital items, facility and equipment costs, communications and other costs expended for the exclusive benefit of the program. Directs costs as recorded in the SABHRS (Statewide Accounting, Budgeting and Human Resources System) for FY 2002 are shown in the second column of the service reports.

The new HB 73 definition of "Indirect costs" means costs that are not exclusively related to an agency program or service and that benefit at least one other agency program or service. For the purpose of this pilot, indirect costs include but are not limited to accounting and payroll, human resources, legal, purchasing and procurement, data processing, records management and executive oversight.

For some of the services, the indirect costs already are budgeted as a specific expenditure item within the service; for other services, the amount is included as an adjustment in the third column of the report headed "Adjustment to Full Cost Accounting." If included in the third column, the indirect costs show as the first adjustment item and are at whatever rate/plan has been negotiated with and approved by the federal cognizant agency for that state agency. Thus, the indirect cost rate/plan varies from agency-to-agency, but will always be consistent within an agency. There are specific footnotes to explain or provide the source for other adjustments contained in column three.

Column four shows the total cost of providing the particular service for FY 2002.

Issues Associated With Implementing and Administering a Full Cost Accounting Model

A number of the accountants providing services to the pilot programs provided a list of issues or potential issues associated with implementing and administering a full cost accounting model. Generally, it should be noted that changing from governmental accounting to "full cost accounting" requires a different mindset. You need to change from the traditional governmental accounting process (appropriations and expenditures) to a system that resembles accounting for a business, as in the private sector (income, expenses, depreciation, etc). You need the ability to generate cash flow in order to be able to pay for items that you cannot claim as expenses until you can amortize them (such as equipment). The process can be accomplished, but it would need planning, upfront funding, and a different method of authorization from the Legislature. This is essentially what is accomplished in an enterprise fund.

Indeed, several accountants indicated in a discussion with the budget office that it would likely take a staff of about 12 people a full decade to fully implement an accurate, defensible state full-cost accounting model. One CPA financial bureau chief with extensive state work experience indicated he thought it would be a significantly bigger task than the MT PRRIME conversion from SBAS to SABHRS. If the Legislature were to pursue implementation of a full cost accounting model, the budget office would have to work with agencies to develop a much more detailed cost analysis.

On the other hand, there are others who believe that full cost accounting would show more complete costs for each agency program and service, which would help policymakers to develop more informed decisions, identify opportunities for streamlining programs and services, facilitate cost-saving efforts, and better plan for the future. Benefits that might be derived from full cost accounting would be setting agency rates and fees for goods and services more fairly and operating some programs or services more cost effectively or charging more accurate fees for those services.

Clearly, there is ample variance of thought to generate a lively discussion of the relative costs and benefits that might be expected in any move from this pilot program to a full cost accounting program for state government services. Given the scarcity of resources for the 2005 biennium, the Governor is not approving any new initiatives, other than cost-saving measures, for presentation to the 2003 Legislature.

In the Department of Environmental Permitting and Compliance Division, four specific points were raised with regard to the full cost accounting pilot:

- The Plan & Specification Review Unit within the Public Water Supply Section of the Permitting and Compliance Division accounts for a portion of the activity within fund 02204 Public Drinking Water. The Plan & Specification Review Unit has a separate revenue account code (506018 SDW Plan Review Fees). In July of FY 2002 a separate org was established in SABHRS to track actual expenses for these reviews (5419 PWSS Plan & Spec Reviews) in compliance with HB 73.
- Charges did not start appearing in the org until January. The staff did attempt to estimate the time they had spent before January on Plan & Specification Review. However, it was concluded that the data was not reliable enough for the agency to prepare journal vouchers. The DEQ accounting and program staff believe the expenditure data from January through June in FY 2002 is reliable.
- From a review of the actual expenses compared to actual revenue, it is evident that the fee is not collecting enough to pay the expenses. Because DEQ does not believe they have captured a true picture of expenditures, they are not ready to make decisions regarding a change in the fee based on the FY 2002. The agency has put mechanisms in place to continue and to improve the tracking of full expenditures in FY 2003.
- There have been extenuating circumstances at work in this program that contribute to the distortion of the expenditures in this org. The Public Water Supply Section has had recruitment problems for several years. The Plan & Specification Reviews require a 60-day turnaround time as established by rule. Because of the vacancies, engineers in other areas of the DEQ are doing some of these reviews in addition to their regular duties. This, of course, means that the time they are charging to 5419 Plan & Specification Review Unit is overtime.

In order to comply with the bill, the Department of Transportation developed a full cost accounting model for the State Motor Pool Unit. The model includes all the services and materials that are direct and indirect costs to the motor pool. Direct charges are costs to operate and maintain the fleet, e.g., labor, material and supplies. Indirect costs benefit many programs and services within the MDOT, such as administrative costs for accounting and personnel. Steps included:

- The allocation by full-time equivalent employees (FTE) was used to determine the motor pool's fair share of indirect costs. First, the number of FTEs was counted in each division, bureau and unit as they fit into each of the eight major department programs and then the FTE for each unit that provides services to the motor pool were listed to determine indirect costing.
- To do a full cost accounting for the motor pool, the indirect costs were gathered from the 2002 SABHRS 106 report. These costs benefit the motor pool and are allocated to the eight major program areas to determine the motor pool's fair share of indirect costs.
- Also, the Administrator of Administration's salary was added to the indirect costs. This person's salary is allocated to the units within administration division.
- Other costs added to the total allocation for motor pool are salaries for the Maintenance Division Administrator and equipment staff. These salaries are allocated based on the portion of time they work on motor pool activities.
- The final step in the process was to allocate all the indirect costs to the eight major program areas by FTE. This allocation provides the fair share of indirect costs to each

program area including the State Motor Pool unit. The sum of this column is increased by allocated costs of the maintenance division administrator, support positions in the equipment bureau and actual direct charges from equipment bureau personnel working on motor pool vehicles. The total of $394,548.23 is the cost other than direct charges that is not currently accounted for in the motor pool. These are costs that may be considered in future rate development to provide full cost recovery rates.

- It required 108 staff hours at a cost of $2,400 not including any benefits to prepare the full cost model at MDOT.

Based on the MDOT model for the State Motor Pool unit, full cost accounting of motor pool rates can effectively be applied to make the fleet operate economically, effectively and efficiently.

Implementation of full cost accounting would have significant impacts on the State Seedling Nursery program, notably:

- The nursery bases its pricing structure on actual, billed costs and has covered all program costs with seedling sales revenue since 1997. A sudden, large price increase to cover new indirect costs would likely need to be implemented over several years in order to allow landowners to adjust their conservation plans and secure additional funding for projects requiring seedlings. Many large conservation projects use federal grant dollars as funding. Phasing in any large price increase would allow managers of cost share programs to modify reimbursement rates. A sudden increase in seedling prices would likely result in reduced seedling sales and thus insufficient revenue to cover all direct and indirect nursery costs.
- Agencies that provide indirect services to full cost accounting programs would need to improve the accounting and billing of indirect costs. Only indirect costs specifically incurred by affected programs should be billed. Using a flat indirect cost rate (10.8% this year) for all programs would penalize efficient programs that have reduced costs in all areas. Programs funded with state special revenue, such as the State Seedling Nursery, have become very efficient over the last six years in order to recover all expenditures within the program. The nursery does not rely on lump sum funding allocated by the Legislature or on federal grants. Detailed accounting of all indirect costs would be expected by all full cost accounting services and agencies.
- Some indirect costs such as warrant writing and payroll fees already are billed to programs. These fees would need to be subtracted from the base percentage fee of indirect costs.
- Recovery of new indirect cost in org number 51123, Trust Lands Seedling Production, would require additional funding from the Trust Land Management Division. These funds would come from School Trust accounts and increase the cost of managing School Trust Lands.
- If a full cost accounting program were to be implemented, some of the State Seedling Nursery indirect costs could be covered with federal tree improvement grant dollars currently used entirely by the Trust Land Management Division. These dollars are granted to the state for tree improvement work. The State Seedling Nursery performs extensive tree improvement work and would have a right to share the federal tree improvement grant dollars.

In the Department of Administration Central Stores program, the only indirect cost added in column three is a portion of the Director's office for executive oversight. Central Stores pays for all direct costs, and the other indirect costs listed in HB 73 are paid directly to the agencies providing the service and paying SFCAP costs.

Recommendation to Privatize Functions

There are no recommendations from the Governor's Office to privatize any of these nine service areas at this time in compliance with Title 2, chapter 8, part 3, MCA.

Consideration of privatizing the Capitol Grounds Maintenance program was raised at several legislative sessions and finally in the 1983 session the program was transferred from the Department of Administration to the Department of Fish, Wildlife and Parks. Subsequently the program flip-flopped back and forth from outsourced contracts to "in-house" delivery of the services. After several biennia, the privatized costs exceeded the budget and the quality of service was in decline, making a strong case to bring the program back into the Parks Division for both the snow removal and the summer maintenance functions. The FWP and the administration recommended, and the Legislature adopted, restoring the Capitol Grounds Maintenance FTE and operating budget in the 1997 biennium.

Based on the MDOT full cost accounting for the State Motor Pool unit, data on other lease contracts and other leasing programs was obtained to compare costs and to ensure the program is still the most cost-effective means of providing this service to the state. Comparisons made with leasing units from a private vendor, MSU Thrifty Car Rental New Student Services Contract Pricing and National Car Rental show that the State Motor Pool rates are 30 percent to 80 percent lower.

The issue of privatizing the State Seedling Nursery has been considered at various legislatives levels at least six times since 1975, most recently during the 1997 session. Each time, overwhelming support from Montana landowners, natural resource-based private industries, Conservation Districts, natural resource-based groups, and numerous governmental and quasi-governmental agencies resulted in the nursery remaining a public entity. This support remains today and revisiting this issue would result in a repeat of extensive past efforts with likely the same result. There is a role and specific responsibility for the self-supporting State Seedling Nursery to play within state government.

Central Stores has been scrutinized throughout its history. Central Stores acts as the delivery and distribution point for contracted products. The program continues to provide certain products at a lower cost than the private sector due to volume contracting for office supplies, janitorial supplies and paper products. Agencies are free under substantive law to shop around and purchase these products from wherever they can get the best bargain, and they do just that.

Cost of Providing the Services

The FY 2002 spreadsheet for each service area included in the pilot program follows, organized by agency code as shown on page one of the report.

5201 - Department of Fish, Wildlife and Parks
Capitol Complex Grounds Maintenance

	SABHRS 2002 Actuals:	Adjustment to **Full Costing**	**Total**
Operating Revenues:			
Charges for Services	332,620		332,620
Other Operating Revenues	14	45,000 (2)	45,014
Total Operating Revenues	$332,634	$45,000	$377,634
Operating Expenses:			
Personal Services	122,772	3,300 (1)	126,072
Contractual Services	1,087		1,087
Supplies/Materials	57,552		57,552
Benefits/Claims	33,978		33,978
Depreciation	13,451		13,451
Amortization	0		0
Utilities/Rent	13,360	45,000 (2)	58,360
Communications	1,839		1,839
Travel	7,048		7,048
Repair/Maintenance	22,845		22,845
Interest Expense	0		0
Securities Lending Expense	0		0
Other Operating Expenses	48,387 (3)		48,387
Total Operating Expenses	$322,320	$48,300	$370,620
Operating Income (Loss)	10,314	(3,300)	7,014
Nonoperating Revenues (Expenses):	0		
Income (Loss) Before Operating Transfers	10,314		7,014
Net Income (Loss)	10,314		7,014
Retained Earnings - July 1 - As Previously Reported	68,294		68,294
Retained Earnings - July 1 - As Restated	68,294		68,294
Retained Earnings - June 30	78,608		75,308

Footnotes:

1) $3300 was adjusted in personal services. This adjustment was included because the Parks Division has three full time employees who spend time administering and managing the Capitol Grounds Maintenance program. All three positions are 100% base funded, with no current structure for accountability to allocate expenses to the Grounds Maintenance program. To reflect accurate full costs, Parks would need to create a plan to allocate a percentage of these personal services.

2) $45,000 was adjusted to revenues and utilities to cover the watering bill. The estimated amount was provided by the Department of Administration General Services Division, which holds the authority for and pays to water lawns at each respective location around the Capitol Complex. If water costs were included in grounds under full costs, it would raise the Grounds Maintenance rate passed on to agencies, with a reciprocal offsetting effect to rent charges managed by the Dept. of Administration.

3) In FY 2002, Grounds Maintenance was assessed $35,016.50 for overhead. This rate is an internal overhead rate for FWP for covering all support functions, such as payroll, claims processing, personnel and legal services, budgeting, and office spaces.

5301 - Department of Environmental Quality
Plan and Specification Review Unit in Public Water Supply

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Charges for Services	40,460		40,460
Total Operating Revenues	$40,460		$40,460
Operating Expenses:			
Personal Services	70,834		70,834
Contractual Services	41		41
Travel	77		77
Other Operating Expenses	15,690		15,690
Total Operating Expenses	$86,642		$86,642
Operating Income (Loss)	(46,182)		(46,182)
Total Nonoperating Revenues (Expenses)	$0		$0
Income (Loss) Before Operating Transfers	(46,182)		(46,182)
Net Income (Loss)	(46,182)		(46,182)
Retained Earnings – July 1 - As Previously Reported	0		0
Prior Period Adjustments	0		0
Retained Earnings – July 1 - As Restated	0		0
Retained Earnings – June 30	(46,182)		(46,182)

Footnotes:
There are no adjustments because the indirect costs of $15,690 are budgeted and collected under Other Operating Expenses. The FY 2002 negotiated rate was 22.15% of personal services.

5401 - Montana Department of Transportation
State Motor Pool

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Charges for Services	3,633,794		3,633,794
Other Operating Revenues	8,803		8,803
			0
Total Operating Revenues	$3,642,597		$3,642,597
Operating Expenses:			
Personal Services	244,722		244,722
Contractual Services	154,861		154,861
Supplies/Materials	679,648		679,648
Depreciation	1,545,000		1,545,000
Utilities/Rent	75,917		75,917
Communications	2,233		2,233
Travel	159		159
Repair/Maintenance	212,634		212,634
Interest Expense	318,652		318,652
Other Operating Expenses	6,466		6,466
Allocated Indirect Costs		394,548	394,548
Total Operating Expenses	$3,240,292	$394,548	$3,634,840
Operating Income (Loss)	402,305	(394,548)	7,757
Nonoperating Revenues (Expenses):			
Gain (Loss) Sale of Fixed Assets	(24,541)		(24,541)
Total Nonoperating Revenues (Expenses)	($24,541)		($24,541)
Income (Loss) Before Operating Transfers	377,764		(16,784)
Net Income (Loss)	377,764		(16,784)
Retained Earnings - July 1 - As Previously Reported	2,382,000		2,382,000
Prior Period Adjustments	(428,000)		(428,000)
Retained Earnings - July 1 - As Restated	1,954,000		1,954,000
Retained Earnings – June 30	2,331,764		1,937,216

Footnotes:
See pages 4 and 5 of the report for the list of calculations made to determine the adjustment.

5706 - Department of Natural Resources and Conservation
State Seedling Nursery in the Forestry Division

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Charges for Services	411,822		411,822
Other Operating Revenues	12		12
Total Operating Revenues	$411,834		$411,834
Operating Expenses:			
Personal Services	277,538	29,947	307,512
Contractual Services	2,044	220	2,264
Supplies/Materials	69,644	7,521	77,165
Utilities/Rent	14,297	1,544	15,841
Communications	3,309	357	3,666
Travel	1,936	209	2,145
Repair/Maintenance	18,600	2,009	20,609
Interest Expense	1,010	0	1,010
Other Operating Expenses	755	82	837
Equipment	17,020	0	17,020
Total Operating Expenses	406,153	41,916	448,069
Operating Income (Loss)	5,681	(41,916)	(36,235)
Income (Loss) Before Operating Transfers	$0	($41,915)	($36,235)
Net Income (Loss)	5,681	(41,915)	($36,235)
Retained Earnings - July 1 - As Previously Reported	24,794		24,794
Prior Period Adjustments			
Retained Earnings - July 1 - As Restated	24,794		24,794
Retained Earnings – June 30	30,475		(11,441)

Footnotes:
$6,600 in personnel expenses coded to org number 51123 was expended by the Trust Land Management Division and not used for seedling production. Therefore, $6,600 was subtracted from the SABRS total for the org.

6101 - Department of Administration
Central Stores in General Services Division

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Charges for Services	4,864,224		4,864,224
Other Operating Revenues	384		384
Total Operating Revenues	$4,864,608		$4,864,608
Operating Expenses:			
Personal Services	358,026		358,026
Contractual Services	13,788		13,788
Supplies/Materials	15,203		15,203
Depreciation	2,110		2,110
Utilities/Rent	92,338		92,338
Communications	35,140		35,140
Travel	66		66
Repair/Maintenance	12,102		12,102
Other Operating Expenses	3,987,450	4,797	3,992,247
Total Operating Expenses	$4,516,223	$4,797	$4,521,020
Operating Income (Loss)	348,385		343,588
Nonoperating Revenues (Expenses):			
Gain (Loss) Sale of Fixed Assets	(523)		(523)
Federal Indirect Cost Recoveries			
Total Nonoperating Revenues (Expenses)	($523)		($523)
Income (Loss) Before Operating Transfers	347,862		343,065
Operating Transfers In	0		
Operating Transfers Out	0		
Net Income (Loss)	347,862		343,065
Retained Earnings - July 1 - As Previously Reported	1,013,996		1,013,996
Retained Earnings - July 1 - As Restated	1,013,996		1,013,996
Retained Earnings - June 30	1,361,858		1,357,061

Footnotes:

The adjustment to full costing is for a percentage of the Director's office budget. Central Stores budget is 2% of the total Department of Administration Budget, so 2% of the Director's office budget was allocated to Central Stores.

6201 - Department of Agriculture
State Hail Insurance Program

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Accommodation Tax/Agencies	119		119
Hail Insurance Premium	296,708		296,708
STIP Participant Earnings	136,123		136,123
STIP Security Lending Gross Ea	2,453		2,453
Hail Insurance Premium Penalty & Interest	3,858		3,858
Total Operating Revenues	$439,261		$439,261
Operating Expenses:			
Direct Costs			
Personal Services	132,731		132,731
Other Services	60,721		60,721
Supplies/Materials	2,886		2,886
Benefits/Claims	1,766,634		1,766,634
Rent	4,632		4,632
Communications	5,296		5,296
Travel	13,729		13,729
Repair/Maintenance	256		256
Securities Lending Expense	2,197		2,197
Other Operating Expenses	5,572		5,572
Indirect Costs		49,987	49,987
Total Operating Expenses	$1,994,655	$49,987	$2,044,642
Operating Income (Loss)	(1,555,394)	(49,987)	(1,605,381)
Nonoperating Revenues (Expenses):	$0		$0
Income (Loss) Before Operating Transfers	(1,555,394)		(1,605,381)
Operating Transfers Out	42,254		42,254
Net Income (Loss)	(1,597,648)		(1,647,635)
Fund Balance - July 1 - As Previously Reported	6,867,810		6,867,810
Fund Balance - July 1 - As Restated	6,867,810		6,867,810
Fund Balance - June 30	5,270,162		5,220,176

Footnotes:
*Payouts due to employees as of June 30, 2002 equal $12,380.

6201 - Department of Agriculture
State Grain Lab

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Grain Inspection	235,642		235,642
Inspection Fees	2,452		2,452
STIP Participant Earnings	1,221		1,221
STIP Security Lending Gross Ea	22		22
Grain Inspection Sales	6,808		6,808
State Grants/Contracts	80,000		80,000
Total Operating Revenues	$326,145		$326,145
Operating Expenses:			
Direct Costs			
Personal Services	257,404		257,404
Other Services	23,528		23,528
Supplies/Materials	5,860		5,860
Utilities	9,648		9,648
Communications	5,431		5,431
Travel	571		571
Repair/Maintenance	3,683		3,683
Securities Lending Expense	20		20
Other Operating Expenses	2,955		2,955
Non budgeted expense decrease in compensated absences (1)		(21,977)	(21,977)
Depreciation Expense		901	901
Indirect Costs (2)		33,347	33,347
Total Operating Expenses	$309,100	$12,271	$321,371
Operating Income (Loss)	17,045	(12,271)	4,774
Income (Loss) Before Operating Transfers	17,045		4,774
Net Income (Loss)	17,045		4,774
Fund Balance - July 1 - As Previously Reported	62,230		62,230
Fund Balance - July 1 - As Restated	62,230		62,230
Fund Balance - June 30	79,275		67,004

Footnotes:

(1) Payouts due to employees as of June 30, 2002 equal $53,155.

(2) Indirect costs of $33,347 were not charged due to the State Grain Lab financial situation in FY 2002.

6501 - Department of Commerce
Montana Promotions Marketing Unit

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Bed Tax Revenue	7,480,295		7,480,295
Bed Tax Revenue Accruals	140,454		140,454
Total Operating Revenue	$7,620,749		$7,620,749
Operating Expenses:			
Personnel Services	1,013,164		1,013,164
Contractual Services	1,637,964		1,637,964
Supplies/Materials	193,358		193,358
Communications	2,340,608		2,340,608
Travel	88,558		88,558
Utilities/Rent	64,101		64,101
Repairs/Maintenance	16,764		16,764
Other Operating Expenses	320,466		320,466
Indirect Costs (15.5% of Personnel)		156,970	156,970
Depreciation		182,383	182,383
Compensated Absences		7,714	7,714
Total Operating Expenses	$5,674,983	$347,067	$6,022,050
Equipment Expenses	6,721		6,721
Special Project Grants	786,664		786,664
TOTAL Expenses	$6,468,368	$347,067	$6,815,435
Net Income (loss)	1,152,381	(347,067)	805,314
Retained Earnings July 1 (Fund Balance) As previously Reported	624,561		624,561
Prior Period Adjustments	0		0
Retained Earnings July 1 As restated	624,561		403,739
Retained Earnings - June 30, 2002 (Restated Retained Earnings + income (loss))	1,776,942		1,209,053

Footnotes:

Department of Revenue operating revenues from FYE 2002 Trial Balance, fund 02116
Montana Promotions expenses from DOC FYE 2002 111 report, fund 02116, Actuals Ledger
Montana Promotions depreciation and compensated absences expenses from DOC 02116 Trial Balance Entity wide Ledger
Used fund 02116, Bed Tax Accommodations only
Prior Period Adjustments form Montana Promotions DOC FYE 2002, fund 02116, Actuals Ledger
Retained Earnings July 1 = Fund Balance 02116, July Actuals Ledger

6901 - Department of Public Health and Human Services
Chemical Dependency Bureau in the AMD Division

	SABHRS 2002 Actuals:	Adjustment to Full Costing	Total
Operating Revenues:			
Charges for Services	1,884,386		1,884,386
Grants/Contracts/Donations	6,213,716		6,213,716
Total Operating Revenues	$8,098,103		$8,098,103
Operating Expenses:			
Personal Services	417,596	(7,276)	410,320
Contractual Services	339,262		339,262
Supplies/Materials	9,563		9,563
Benefits/Claims	894,441		894,441
Local Assistance	1,348,802		1,348,802
Grants	4,778,377		4,778,377
Utilities/Rent	7,692		7,692
Communications	7,044		7,044
Travel	52,410		52,410
Repair/Maintenance	0		0
Interest Expense	1,786	410	2,196
Other Operating Expenses	241,130		241,130
Total Operating Expenses	$8,098,102	($6,866)	$8,091,236
Operating Income (Loss)	0	6,866	6,866
Income (Loss) Before Operating Transfers	0		6,866
Net Income (Loss)	0		6,866
Prior Period Adjustments	(174,851)		(174,851)
Retained Earnings - July 1 - As Restated	0		(174,851)
Retained Earnings - June 30	(174,851)		(167,985)

Footnotes:

Compensated Absences are adjusted against personal services
Indirect costs are included in the Other category.
Indirect costs are considered an operational expenditure.

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